


Memorandum



Date: October 10, 2006

To: Honorable Chairman Joe A. Martinez and Members,
Board of County Commissioners

From: George M. Burgess
County Manager 

Subject: Performing Arts Center Progress Report

Agenda Item No. 12 (B) 4

I am pleased to report that, as promised in July 2004, the Performing Arts Center Project now stands 98% complete and received the necessary Temporary Certificates of Occupancy (TCO) from the City of Miami's Building Department and Fire Marshal on Friday, August 4, 2006. This extraordinary accomplishment allows the facility to now be used for its intended purposes. Now that the TCO has been received, the remaining work leading to the final completion will be broken down as follows:

1. Completion of work outlined in the TCO's qualification list that must be completed to allow for all areas of the buildings to be deemed fully functional from the perspective of the governing authorities. Generally, the list is comprised of additional devices, signs and miscellaneous modifications to improve the overall functionality of the buildings. This work will require our immediate attention and should be completed prior to the first public performances in the halls;
2. Completion of all the detail work involved with the overall aesthetic appearances of the buildings. This will consist of modifications required by the Performing Arts Center Trust (Trust), the acousticians, theater designer, architect, governing authorities and other design professionals. It is during this period that the final cleaning will take place and re-lamping of all lights as may be required will be completed;
3. The training and commissioning of the buildings' systems will be held with the Trust and their facility manager. The close out documentation from the subcontractors will be received, reviewed and evaluated; and
4. Tuning, adjustment and checkout of all the variable acoustic and performance related systems. These activities will allow the Trust to familiarize their personnel with all the systems incorporated into this world class facility.

The aforementioned work is currently scheduled to be substantially complete by the middle of October, 2006.

Additionally, the Design Professionals, Construction Manager, Program Manager and subcontractors are working on developing the overall punch list for the Project. While this information continues to be gathered and completed, the bulk of these activities will not begin until the second week in October. The exception to this plan involves the areas that have already been occupied by the Trust and the Performing Arts Center Foundation. The punch list for these areas has begun and, in a number of cases, has been completed.

Downsizing of the administrative staff for all disciplines has begun and will continue as the Project moves toward final closeout. Every effort is being made to insure that the final Certificate of Occupancy and remaining close out issues are received by January, 2007. Along with the natural downsizing of the staff, the demobilization of the trailer complex has begun. Currently, it is anticipated that all remaining staff will be moved into the two trailer complexes on the eastern portion of the current lot, providing additional parking for the Center.

The landscaping, hardscaping, paving, lighting and pavers work for the Center and contiguous "Superblock" area is nearing completion. The Florida Department of Transportation (FDOT), the City of Miami and our own forces continue to transform the area into one of a vibrant entertainment area.

Ongoing Audits by the Audit and Management Services Department

In July 2004, under the Restructuring Agreement pursuant to Change Order 73 (R-1021-04), the Board approved \$30 million to settle the 12 major subcontractors. In this Restructuring Agreement, the County has the right to an audit for the purpose of verifying that the Construction Manager has, at a minimum, incurred actual costs for the above settlement amounts. If such audit concludes that the Construction Manager has not incurred actual costs to the extent of the settlement amounts, the County shall be entitled to setoff such amount from any payments otherwise due the Construction Manager. The Audit and Management Services Department has completed three of the twelve major subcontractors and has found that these audits met the burden of the Change Order 73 and represented a fair and reasonable settlement. These three audits have already been transmitted for your review and information and I will continue to keep you apprised as the remaining nine audits are completed.

Upcoming Action Items

The Performing Arts Center Management Office is currently in the beginnings of the close-out process in order to accomplish the final completion of the Project. This process involves closing out over \$49.0 million in purchase orders under the Project's Direct Purchase Program, reconciling the Construction Manager's construction contract per the close out procedures in the contract specifications, closing out any remaining issues under the Project's other contracts, and settling any remaining request for equitable adjustments (settlements) from the subcontractors.

I anticipate presenting close-out Change Orders next month for your review that are related to the close out of the County's Direct Purchase Program and increasing the Construction Manager's contract for added scope due to work the Construction Manager has undertaken regarding the 'Superblock' Project, Art in Public Places installation (Pharaoh's Dance), FDOT civil work on Biscayne Boulevard, and user requests from the Performing Arts Center Trust (wood floors, marquees, etc). No additional funds will be requested for these changes as funding has been received by the City of Miami, FDOT, the Office of Art in Public Places, and the Performing Arts Center Trust. Additionally, in the close-out change order for the Direct Purchase Program, funding was anticipated and budgeted in the Project's approved budget allocation. Other close-out change orders may follow but cannot be determined until we get closer to the final close out in January, at which time all Project costs will be final. I will also present to the Board a final close-out financial report once the Project reaches final completion in January.

As I stated in my June 6 report to the Board, it was apparent that additional funds would be needed beyond the \$10 million amount established in Change Order 85 to settle assorted requests from the subcontractors. I further stated that settling these issues equitably and timely has provided the goodwill and additional incentive for subcontractors to provide the manpower necessary to continue the required acceleration in an ever constricting labor market. While settling issues with the subcontractors is rapidly depleting the funds available for this purpose, it is through the timely and diligent resolution of subcontractor issues that the Project's completion date of August 4th was accomplished. At the current pace of resolutions, I anticipate providing the completed report on the final settlements with the appropriate funding sources in October. Since the restructuring, we have received 21 requests for equitable adjustments from subcontractors. Of these requests, 15 have been amicably settled (including the lower tier subcontractors) with "full accord and satisfaction" for the release of all potential claim rights against the Project. Six requests are currently being analyzed by the County's Claims Consultant, URS. We continue to remain confident that by addressing these issues in a timely and fair manner, we will be able to conclude the Project with little or no litigation.

Budget - Current Construction Budget

Original GMP	\$254,650,000.00
Change Orders (Adds) ⁽¹⁾	\$106,054,399.00
Change Order (Insurance Deduct)	(\$ 3,200,000.00)
Change Orders (Deduct or Direct Purchase) ⁽²⁾	(\$ 50,007,644.00)
Current value of the Construction Contract	\$307,496,755.00
Current value of the Total Construction (Includes Direct Purchases)	\$357,504,399.00

⁽¹⁾ Increased by Board executed Change Orders 83 and 85 by \$4,195,087 for various systems and finishes added to the Project and \$38.3 million for the Project's Acceleration/Recovery Plan (\$33.3 million additional County Funding and \$5.0 million from the Performing Arts Center Trust received in June 2006)

⁽²⁾ Increased by Change Order 84 by \$1,375,317 for various direct purchase materials

Since the last pay application (May '06), Work in Place increased in June by \$5.341 million.

Total Paid PACB through June '06	\$289,713,070.00
Retainage Withheld	\$ 6,373,067.00
Work in Place including global settlement within the Construction Contract	\$296,086,137.00
Direct Material Purchases to Date	\$ 46,857,082.00
Total Construction Contract completed to date (June '06)	\$ 342,943,219.00

Art in Public Places (APP)

The Robert Zakanitch organ scrims at the Concert Hall and curtain at the Ballet Opera House have been installed and are now complete. The Jose Bedia glass rails at all balcony levels in both lobbies as well as the terrazzo floor installations are complete. The Cundo Bermudez glass mosaic installation at the Studio Theater lobby has also been completed.

Anna Murch's wave panel fountains are complete and operational. Seat benches at the plaza will be installed starting the week of September 11th, immediately following the installation of the pavers.

Gary Moore's "Pharaoh's Dance Plaza" is pending the installation of the medallions and bamboo landscaping. Work is proceeding and completion is scheduled for the week ending September 15th.

All of the artists have visited the site to inspect their respective projects and the reviews have been excellent. The art that has been installed through Miami-Dade's County's Office of Art in Public Places (APP) has exceeded everyone's expectations and the artists are looking forward to the official unveiling of the projects at the grand opening. APP commissioned a documentary film on the public art works and artists of the Carnival Center for the Performing Arts entitled *Culture of the Structure*, to premier in December, which documents the entire artistic process of the creation, fabrication, and installation of these great APP projects.

Community Small Business Enterprise (CSBE) Participation Status

The Construction Manager (CM) has exceeded its 10% CSBE participation goal for the Construction Management portion of the Project by 1.52% or \$795,808.57. The CM accomplished this important contract requirement by awarding subcontracts to four (4) CSBE firms totaling \$5,875,678.46.

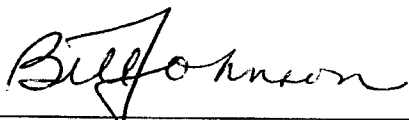
The CM has also successfully achieved 18.75% of the 19.11% CSBE Participation goal for the construction portion of the Project. The CM accomplished this by awarding subcontracts to nineteen (19) CSBE firms totaling \$35,770,524.51. The CM submitted a CSBE plan to achieve the remaining .32% or \$682,566.99 of the stated goal. However, final change orders for the Project may impact/reduce the remaining balance amount of the CSBE participation goal.

Comprehensive Employment Strategy Agreement (CESA)

The Construction Manager has exceeded its new hire goal of 200 with 367 new hires. Of these, 29 individuals reside in Priority Zone 1; 79 in Priority Zone 2; 191 in Priority Zone 3; and 70 reside in Priority Zone 4.

Workforce employed on site to date

The total number of individuals employed to date is 6173, as reported by PACB. This includes administrative staff and represents an increase from last month.



Acting Port Director